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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,042	03/11/2004	Douglas W. Climenhaga	00834P0020US	4964

32116 7590 07/21/2006

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
500 W. MADISON STREET  
SUITE 3800  
CHICAGO, IL 60661

EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT PAPER NUMBER

3654

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/798,042	<b>Applicant(s)</b> CLIMENHAGA, DOUGLAS W.	
	<b>Examiner</b> Terrell H. Matthews	<b>Art Unit</b> 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's election without traverse of claims 1-5 in the reply filed on 5/16/2006 is acknowledged.

Claims 6-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/16/2006.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, it is unclear as to whether the cylindrical tube or the antirotation tube is referred to by the statement "said tube".

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace (US-3098542) in view of Krenning (US-2935049).

Referring to claims 1-3. Wallace discloses a "Safety Latch Arrangement". See Figs. 1-12 and respective portions of the specification. Wallace further discloses a in ground lift (16) having an antirotation tube (20) with a load holding device (14), comprising an elongated, cylindrical tube (30) having the same outer diameter as an antirotation tube for a lift; a plurality of first slots (26) spaced at a predetermined locations in one side of said tube; a plurality of second slots spaced generally in alignment with corresponding ones of first said slots and located on a side of said tube opposite said one side (70); a plurality of elongated dogs (24) each having a length greater than the outside diameter, one for each aligned pair of said first and second slots; a plurality of pivot pins (44), one for each dog, within the interior of the tube and each journaling an associated dog for rotation about an axis mutually transverse to the tube and a corresponding one of the aligned pairs of slots between a first position wholly within the tube and a second position wherein opposite ends of the dogs extend out of both the first and second slots of the associated pair, the axis and/or the dogs further being such that each dog has more mass between the axis and one end of the dog than the other end (See at least Fig. 2); Wallace does not disclose a nut connected to the tube at one end thereof; a manual actuator pivoted within the tube and movable between a first position within the tube and a second position extending exteriorly of the tube or a linkage connecting the actuator and each of the dogs and movable in response to movement of the actuator to the actuators second position to allow

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movement of the dogs from the dogs second positions towards the dogs first positions, and responsive to movement of the actuator toward the actuators first position to allow the dogs to move toward the dogs second position. Krenning discloses a "Safety Mechanism For Lifting Devices". See Figs. 1- 10 and respective portions of the specification. Krenning further discloses a bolt connected to the tube at one end thereof, a slot (42) in the side between the nut on the one hand and the second slots on the other hand, a manual actuator (50) pivoted within the tube and movable between a first position with the tube and a second position extending exteriorly of the tube and a linkage (94,98) connecting the actuator and dogs and movable in response to the movement of the actuator (See at least Col 3 l. 1-5, Col. 4 l. 31 – Col. 5 l. 4 & at least Figs. 5, 7). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Wallace to include the teachings of Krenning and include a nut and bolt connected to the tube at one end thereof so that the tube could be connected to the superstructure in a secure arrangement that provide for easy installation and detachment during times of maintenance or replacement. Furthermore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include a second slot, manual actuator, and linkage connecting the actuator to the dogs and movable in response to the movement of the actuator as taught by Krenning so that when the actuator is activated the dogs can either be moved in position to provide for a safety engagement to prevent the lift from accidentally falling or so they can be moved into position to allow for the lowering of the lift. This would

provide the apparatus with a means of successfully lifting and raising the lift without the fear of the lift accidentally falling and risking injury to persons located below the lift.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace (US-3098542) in view of Krenning (US-2935049) as applied to claims 1-3 as advanced above in further view of Mortenson (US-4078676).

Referring to claims 4-5. Wallace discloses the invention as described above in detail. Wallace does not disclose wherein the actuator is connected to the link by a lost motion connection. Mortenson discloses a "Self Storing Lift Gate Assembly". See Figs. 1-9 and respective portions of the specification. Mortenson further discloses wherein an actuator (42) is connected to the link (36) by a lost motion connection (See at least Col. 5 l. 20-35 & at least Figs. 4-5). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Wallace to include the teachings of Mortensen wherein the actuator was connected to the link by a lost motion connection so the link assembly was capable of fore-shortening itself to accommodate moving the link assembly in the correct manner so that the dogs can be positioned to stop the lift assembly.

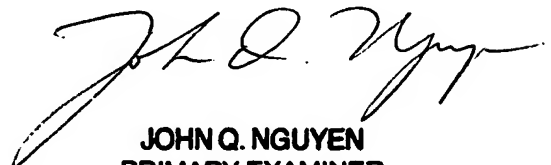
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

THM



**JOHN Q. NGUYEN**  
**PRIMARY EXAMINER**

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